

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, DECEMBER 1, 2003 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Camp; Council Members: Cook, Friendt, McRoy, Newman, Svoboda, Werner; Joan Ross, City Clerk.

Council Chair asked all present to stand and recite the Pledge of Allegiance and observe a moment of silent meditation.

READING OF THE MINUTES

WERNER Having been appointed to read the minutes of the City Council proceedings of November 24, 2003, reported having done so, found same correct.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

PUBLIC HEARING

MANAGER APPLICATION OF PATRICIA PIKE FOR BUGGY BATH WEST DBA BUGGY BATH CAR WASH WEST AT 1502 W. O ST.;

MANAGER APPLICATION OF TODD M. KERNS FOR OUTBACK STEAKHOUSE FL, INC. DBA OUTBACK STEAKHOUSE AT 633 N. 48TH ST.;

MANAGER APPLICATION OF PATRICK R. LEAPLEY FOR GMRI INC. DBA RED LOBSTER RESTAURANT #0236 AT 6540 O ST. - Bob Valentine, 2660 Park Ave., came forward in opposition.

This matter was taken under advisement.

APPROVING A FIVE YEAR LEASE AGREEMENT BETWEEN B & J PARTNERSHIP LTD. & THE CITY DBA LINCOLN FIRE & RESCUE FOR THE LEASE OF WAREHOUSE SPACE AT 2600 PARK BLVD. - Bob Valentine, 2660 Park Ave., came forward in opposition.

Chief Deputy John Huff came forward to answer questions. Discussion followed.

Connor Reuter, Ass't. City Attorney, came forward to answer questions. Further discussion followed.

Don Herz, City Finance Director, came forward to answer questions. Discussion followed.

Ed Patterson, 2108 Q Street, came forward to express his opinion on this matter.

This matter was taken under advisement.

CHANGE OF ZONE NO. 3399 - AMENDING ORDINANCE NO. 18113 RELATING TO IMPACT FEES BY AMENDING SECTION 6 ADDING A NEW SECTION 27.82.060 (EXEMPTION FROM IMPACT FEES) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.060 TO CLARIFY THAT VALID BUILDING PERMIT APPLICATIONS SUBMITTED PRIOR TO JUNE 2, 2003 ARE EXEMPT FROM IMPACT FEES, TO PROVIDE WHEN A BUILDING PERMIT APPLICATION SHALL BE DEEMED COMPLETE, TO CLARIFY THAT AMENDMENTS, MODIFICATIONS OR OTHER CHANGES TO AN APPROVED DEVELOPMENT WHICH IS CATEGORICALLY EXEMPT WILL BE SUBJECT TO THE IMPOSITION OF IMPACT FEES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27.82.050, TO DELETE TABLE 27.82.060(B), TO DELETE REFERENCES TO APPROVALS QUALIFYING FOR CATEGORY EXEMPTIONS, TO CLARIFY WHEN A CLAIM OF EXEMPTION FOR LOW INCOME OWNER-OCCUPIED HOUSING AND LOW INCOME RENTAL HOUSING MUST BE MADE, AND WHEN SAID CLAIMS BECOME VALID; BY AMENDING SECTION 7 ADDING A NEW SECTION NUMBERED 27.82.070 (IMPACT FEE FUNDS) TO THE LINCOLN MUNICIPAL CODE AMENDING SECTION 27.82.070 TO CLARIFY THAT NO MORE THAN 2% OF THE IMPACT FEES COLLECTED MAY BE USED TO COMPENSATE THE CITY FOR ADMINISTRATIVE EXPENSES INCLUDING REFUNDS; BY AMENDING SECTION 8 ADDING A NEW SECTION NUMBERED 27.82.080 (REFUNDS OF IMPACT FEES PAID) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.080 TO PROVIDE FOR A REFUND OF IMPACT FEES PREVIOUSLY PAID WHEN THE DEVELOPMENT SUBSEQUENTLY QUALIFIES FOR AN OWNER-OCCUPIED LOW INCOME HOUSING EXEMPTION; BY AMENDING SECTION 11 ADDING A NEW SECTION NUMBERED 27.82.110 (MISCELLANEOUS PROVISIONS) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.110 TO ELIMINATE REFERENCE TO ADMINISTRATIVE COSTS, TO MODIFY PROVISIONS REGARDING REDUCING IMPACT FEES TO ALLOW A SUBSIDY BASED UPON MEETING ESTABLISHED ECONOMIC CRITERIA, TO MODIFY PROVISIONS REGARDING ADJUSTMENTS FOR INFLATION, AND TO RELETTER THE VARIOUS SUBSECTIONS; BY AMENDING SECTION 16 ADOPTING AND INCORPORATING THE DOWNTOWN/ANTELOPE VALLEY EXCLUSION

AREA MAP, THE WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP, THE ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP, AND THE NEIGHBORHOOD PARK AND TRAIL IMPACT FEE BENEFIT AREAS MAP INTO ORDINANCE NO. 18113 TO PROVIDE THAT THOSE MAPS BE CODIFIED IN THE LINCOLN MUNICIPAL CODE AS APPENDIXES 1 THROUGH 4 TO CHAPTER 27.82; BY AMENDING SECTION 17 ADOPTING AND INCORPORATING THE IMPACT FEE STUDY PREPARED BY DUNCAN ASSOCIATES INTO ORDINANCE NO. 18113 BY AMENDING TABLE 4, ARTERIAL STREET COST PER MILE, TO EXCLUDE SIDEWALKS, WATER AND WASTEWATER LINE ADJUSTMENTS AND TO REDUCE THE NUMBER OF UNITS FOR FULL INTERSECTION TRAFFIC SIGNALS FROM 3.5 TO 1.5 UNITS PER MILE IN DETERMINING THE TOTAL COST PER MILE FOR A FOUR-LANE ARTERIAL AND BY DELETING THE SECOND PARAGRAPH OF TEXT ON PAGE 12 OF THE STUDY AND TO PROVIDE THAT ONE COPY OF THE IMPACT FEE STUDY BE FILED IN THE OFFICE OF THE CITY CLERK FOR USE AND EXAMINATION BY THE PUBLIC; BY AMENDING SECTION 20 TO PROVIDE THAT ORDINANCE NO. 18113 SHALL BE IN FULL FORCE AND EFFECT AS OF JUNE 2, 2003 AFTER ITS PASSAGE AND POSTING ON THE OFFICIAL BULLETIN BOARD OF THE CITY IN LIEU OF NEWSPAPER PUBLICATION - Steve Henrichsen, Planning Department, came forward to clarify the amendment to the impact fee ordinance.

Michaela Hanson, Public Works Dept., came forward as the Impact Fee Coordinator to answer any questions. Discussion followed.

Bob Valentine, 2660 Park Ave., came forward in opposition to the impact fees.

This matter was taken under advisement.

APPROVING AN ANNEXATION AGREEMENT BETWEEN THE CITY OF LINCOLN & THE STATE OF NEBRASKA DEPARTMENT OF ADMINISTRATIVE SERVICES OUTLINING CERTAIN CONDITIONS & UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF THE LINCOLN REGIONAL CENTER PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF W. VAN DORN & S. FOLSOM ST. (IN CONNECTION W/03-156) (11/17/03 - PUBLIC HEARING CONT'D. TO 12/1/03) - Nicole Fleck-Tooze, Public Works Dept., came forward to explain the Regional Center will pay the full cost of \$720,000 for the water main and 20% of the cost of the pump station. Discussion followed.

Dana Roper, City Attorney, came forward to explain the three pieces of legislation presented.

This matter was taken under advisement.

APPROVING AN AGREEMENT BETWEEN THE CITY & THE NEBRASKA DEPARTMENT OF ROADS FOR THE BRIDGE REPLACEMENT FUNDS TO REPLACE THE HARRIS OVERPASS ON O ST. BETWEEN 3RD & 9TH STS. (PROJ. #BR-5266(1)) & FOR ELIGIBILITY OF FEDERAL FUNDS - Danny Walker, 437 E St., stated he wanted assurances that proper procedures are being used for this project.

This matter was taken under advisement.

APPROVING A CONSERVATION EASEMENT AGREEMENT BETWEEN DOUG SCHMIDT CONSTRUCTION, INC. & THE CITY OVER LOT 1, EXCEPT THE SOUTH 7.0 FT. THEREOF, FAIRWAY ADDITION, TO PRESERVE THE TREE MASSES, DRAINAGE WAY & FLOODPLAIN WITHIN THE EASEMENT AREA. (10/27/03 - LOST, 1-5; SVOBODA ASSENTING; CAMP ABSENT, #38-4455) (11/03/03 - RECONSIDERED TO HAVE PUBLIC HEARING & ACTION ON 12/1/03, 7-0.);

SPECIAL PERMIT 2029 - APP. OF DOUG SCHMIDT & MICHAEL THOMALLA TO DEVELOP S.W. 1ST STREET APARTMENTS COMMUNITY UNIT PLAN FOR 30 DWELLING UNITS ON PROPERTY GENERALLY LOCATED AT W. A ST. & S.W. 1ST STS. (10/27/03 - LOST, 1-5; SVOBODA ASSENTING; CAMP ABSENT; #38-4456) (11/03/03 - RECONSIDERED TO HAVE PUBLIC HEARING & ACTION ON 12/1/03, 7-0.) - Peter Katt, Pierson Fitchett Law Firm, 1045 Lincoln Mall, Suite 200, came forward to state that this development satisfies all standards and that the no net rise is impractical on this site. Discussion followed.

Ed Patterson, 2108 Q Street, commented on the no net rise and no net fill.

Omadeane Talley, 806 W. Garfield, President of the South Salt Creek Neighborhood Assn., came forward in opposition.

Danny Walker, 437 E St., came forward in opposition. Discussion followed.

Glen Cekal, 1420 C St., came forward in opposition.

Peter Katt, Pierson Fitchett Law Firm, 1045 Lincoln Mall, Suite 200, came forward for rebuttal. Further discussion followed.

This matter was taken under advisement.

MISCELLANEOUS BUSINESS

Dean Hillhouse and Brad Hillhouse, no address given, came forward in reference to their property that is to be relocated or bought by the City for the Antelope Valley Project. They feel the process has been an unfair process. Discussion followed.

Dana Roper, City Attorney, stated that he would have Assistant City Attorney Joel Pedersen call Mr. Hillhouse about this situation. This matter was taken under advisement.

**** END OF PUBLIC HEARING ****

COUNCIL ACTION

LIQUOR RESOLUTIONS

MANAGER APPLICATION OF PATRICIA PIKE FOR BUGGY BATH WEST DBA BUGGY BATH CAR WASH WEST AT 1502 W. O ST. - PRIOR to reading:

SVOBODA Moved to continue the public hearing to 12/8/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF TODD M. KERNS FOR OUTBACK STEAKHOUSE FL, INC. DBA OUTBACK STEAKHOUSE AT 633 N. 48TH ST. - PRIOR to reading:

SVOBODA Moved to continue the public hearing to 12/8/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

MANAGER APPLICATION OF PATRICK R. LEAPLEY FOR GMRI INC. DBA RED LOBSTER RESTAURANT #0236 AT 6540 O ST. - PRIOR to reading:

SVOBODA Moved to continue the public hearing to 12/8/03.

Seconded by Newman & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ORDINANCES - 2ND READING

APPROVING A FIVE YEAR LEASE AGREEMENT BETWEEN B & J PARTNERSHIP LTD. & THE CITY DBA LINCOLN FIRE & RESCUE FOR THE LEASE OF WAREHOUSE SPACE AT 2600 PARK BLVD. (11/17/03 - PUBLIC HEARING CONT'D TO 12/1/03) - CLERK read an ordinance, introduced by Annette McRoy, accepting and approving a Lease Agreement between B & J Partnership, Ltd. and the City of Lincoln for a lease of approximately 12,500 square feet of space at 2600 Park Blvd., Lincoln, Lancaster County, Nebraska for a five-year term commencing October 1, 2003 and continuing until August 31, 2008 for use by the Lincoln Fire Department for the FEMA Urban Search and Rescue Task Force Program, the second time.

CHANGE OF ZONE NO. 3399 - AMENDING ORDINANCE NO. 18113 RELATING TO IMPACT FEES BY AMENDING SECTION 6 ADDING A NEW SECTION 27.82.060 (EXEMPTION FROM IMPACT FEES) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.060 TO CLARIFY THAT VALID BUILDING PERMIT APPLICATIONS SUBMITTED PRIOR TO JUNE 2, 2003 ARE EXEMPT FROM IMPACT FEES, TO PROVIDE WHEN A BUILDING PERMIT APPLICATION SHALL BE DEEMED COMPLETE, TO CLARIFY THAT AMENDMENTS, MODIFICATIONS OR OTHER CHANGES TO AN APPROVED DEVELOPMENT WHICH IS CATEGORICALLY EXEMPT WILL BE SUBJECT TO THE IMPOSITION OF IMPACT FEES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 27.82.050, TO DELETE TABLE 27.82.060(B), TO DELETE REFERENCES TO APPROVALS QUALIFYING FOR CATEGORY EXEMPTIONS, TO CLARIFY WHEN A CLAIM OF EXEMPTION FOR LOW INCOME OWNER-OCCUPIED HOUSING AND LOW INCOME RENTAL HOUSING MUST BE MADE, AND WHEN SAID CLAIMS BECOME VALID; BY AMENDING SECTION 7 ADDING A NEW SECTION NUMBERED 27.82.070 (IMPACT FEE FUNDS) TO THE LINCOLN MUNICIPAL CODE AMENDING SECTION 27.82.070 TO CLARIFY THAT NO MORE THAN 2% OF THE IMPACT FEES COLLECTED MAY BE USED TO COMPENSATE THE CITY FOR ADMINISTRATIVE EXPENSES INCLUDING REFUNDS; BY AMENDING SECTION 8 ADDING A NEW SECTION NUMBERED 27.82.080 (REFUNDS OF IMPACT FEES PAID) TO THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.080 TO PROVIDE FOR A REFUND OF IMPACT FEES PREVIOUSLY PAID WHEN THE DEVELOPMENT SUBSEQUENTLY QUALIFIES FOR AN OWNER-OCCUPIED LOW INCOME HOUSING EXEMPTION; BY AMENDING SECTION 11 ADDING A NEW SECTION NUMBERED 27.82.110 (MISCELLANEOUS PROVISIONS) TO

THE LINCOLN MUNICIPAL CODE BY AMENDING SECTION 27.82.110 TO ELIMINATE REFERENCE TO ADMINISTRATIVE COSTS, TO MODIFY PROVISIONS REGARDING REDUCING IMPACT FEES TO ALLOW A SUBSIDY BASED UPON MEETING ESTABLISHED ECONOMIC CRITERIA, TO MODIFY PROVISIONS REGARDING ADJUSTMENTS FOR INFLATION, AND TO RELETTER THE VARIOUS SUBSECTIONS; BY AMENDING SECTION 16 ADOPTING AND INCORPORATING THE DOWNTOWN/ANTELOPE VALLEY EXCLUSION AREA MAP, THE WATER DISTRIBUTION IMPACT FEE BENEFIT AREAS MAP, THE ARTERIAL STREET IMPACT FEE BENEFIT AREAS MAP, AND THE NEIGHBORHOOD PARK AND TRAIL IMPACT FEE BENEFIT AREAS MAP INTO ORDINANCE NO. 18113 TO PROVIDE THAT THOSE MAPS BE CODIFIED IN THE LINCOLN MUNICIPAL CODE AS APPENDIXES 1 THROUGH 4 TO CHAPTER 27.82; BY AMENDING SECTION 17 ADOPTING AND INCORPORATING THE IMPACT FEE STUDY PREPARED BY DUNCAN ASSOCIATES INTO ORDINANCE NO. 18113 BY AMENDING TABLE 4, ARTERIAL STREET COST PER MILE, TO EXCLUDE SIDEWALKS, WATER AND WASTEWATER LINE ADJUSTMENTS AND TO REDUCE THE NUMBER OF UNITS FOR FULL INTERSECTION TRAFFIC SIGNALS FROM 3.5 TO 1.5 UNITS PER MILE IN DETERMINING THE TOTAL COST PER MILE FOR A FOUR-LANE ARTERIAL AND BY DELETING THE SECOND PARAGRAPH OF TEXT ON PAGE 12 OF THE STUDY AND TO PROVIDE THAT ONE COPY OF THE IMPACT FEE STUDY BE FILED IN THE OFFICE OF THE CITY CLERK FOR USE AND EXAMINATION BY THE PUBLIC; BY AMENDING SECTION 20 TO PROVIDE THAT ORDINANCE NO. 18113 SHALL BE IN FULL FORCE AND EFFECT AS OF JUNE 2, 2003 AFTER ITS PASSAGE AND POSTING ON THE OFFICIAL BULLETIN BOARD OF THE CITY IN LIEU OF NEWSPAPER PUBLICATION - CLERK read an ordinance, introduced by Patte Newman, amending Ordinance No. 18113 relating to impact fees by amending Section 6 adding a new section 27.82.060 (Exemption from Impact Fees) to the Lincoln Municipal Code, the second time.

RESOLUTIONS

APPROVING AN ANNEXATION AGREEMENT BETWEEN THE CITY OF LINCOLN & THE STATE OF NEBRASKA DEPARTMENT OF ADMINISTRATIVE SERVICES OUTLINING CERTAIN CONDITIONS & UNDERSTANDINGS WITH REGARDS TO THE ANNEXATION OF THE LINCOLN REGIONAL CENTER PROPERTY GENERALLY LOCATED AT THE INTERSECTION OF W. VAN DORN & S. FOLSOM ST. (IN CONNECTION W/03-156) (11/17/03 - PUBLIC HEARING CONT'D. TO 12/1/03) - PRIOR to reading:

SVOBODA Moved to amend Bill No. 03R-314 by substituting the Lincoln Regional Center Annexation Agreement attached hereto marked as Attachment "A" for the Lincoln Regional Center Annexation Agreement presently attached to Bill No. 03R-314 as Attachment "A".

CLERK Read the following resolution, introduced by Annette McRoy, who moved its adoption.

A-82477 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled Lincoln Regional Center Annexation Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln and the State of Nebraska Department of Administrative Services, outlining certain conditions and understandings between the City and State relating to the annexation of state property generally located at the intersection of West Van Dorn Street and South Folsom Street, is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return two fully executed copies of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the State.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the City.

Introduced by Annette McRoy

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING AN AGREEMENT BETWEEN THE CITY & THE NEBRASKA DEPARTMENT OF ROADS FOR THE BRIDGE REPLACEMENT FUNDS TO REPLACE THE HARRIS OVERPASS ON O ST. BETWEEN 3RD & 9TH STS. (PROJ. #BR-5266(1)) & FOR ELIGIBILITY OF FEDERAL FUNDS - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82478 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached Agreement between the City of Lincoln and the State of Nebraska Department of Roads for Project No. BR-5266(1), for the Bridge Replacement Funds to replace the Harris Overpass on O Street between 3rd and 9th Streets and Roadway Project to be eligible to receive Federal Funds, in accordance with the terms and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return the executed copies of the Agreement to the Department of Public Works, for transmittal and execution by the State Department of Roads.

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ACCEPTING THE REPORT OF NEW & PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF NOV. 1 TO 15, 2003 - PRIOR to reading:

COOK Moved to accept a substitute resolution adding the claim of Merlyn Pohlmann to be allowed or settled.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption.

A-82479 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated November 17, 2003, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

DENIED

ALLOWED OR SETTLED

Pat McCoy and David McCoy	\$ 100.00	Jamie C. Graham	\$ 750.00
Derle McCorkle	1,986.24	Shery Xiu E. Sun	1,048.40
		Merlyn Pohlmann	4,250.00

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Jonathan Cook

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE INTEREST RATE OF 6.25% & LEVYING THE ASSESSMENTS ON SPECIAL ASSESSMENT GROUP II OF THE BOARD OF EQUALIZATION HEARING OF NOV. 24, 2003; AND, ACCEPTING THE REPORT OF BOARD OF EQUALIZATION TO THE CITY COUNCIL ON SPECIAL ASSESSMENT GROUP II - - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82480 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska that:

The Special taxes assessed November 24, 2003 to pay the costs of the improvements in Water District 1184, Sewer District 1175, Water District 1189, & Sewer District 1178 are hereby levied and shall bear interest at 6.25% per annum and that the period of time in which the assessments are to be paid shall be as follows:

20 years - Water District 1184, Sewer District 1175, Water District 1189, & Sewer District 1178

Introduced by Ken Svoboda

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

APPROVING A CONSERVATION EASEMENT AGREEMENT BETWEEN DOUG SCHMIDT CONSTRUCTION, INC. & THE CITY OVER LOT 1, EXCEPT THE SOUTH 7.0 FT. THEREOF, FAIRWAY ADDITION, TO PRESERVE THE TREE MASSES, DRAINAGE WAY & FLOODPLAIN WITHIN THE EASEMENT AREA. (10/27/03 - LOST, 1-5; SVOBODA ASSENTING; CAMP ABSENT, #38-4455) (11/03/03 - RECONSIDERED TO HAVE PUBLIC HEARING & ACTION ON 12/1/03, 7-0.) - - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption.

A-82481 WHEREAS, Doug Schmidt Construction, Inc. has offered to grant a conservation easement over Lot 1, except the south 7.0 feet thereof,

Fairway Addition, Lincoln, Lancaster County, Nebraska to preserve the tree masses, drainage way and floodplain within the easement area; and

WHEREAS, acquisition of this conservation easement by the City is in conformance with the Lincoln-Lancaster County Comprehensive Plan and would further the goals of the Comprehensive Plan relating to floodplains.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That, on behalf of the City of Lincoln, Nebraska, the offer of a conservation easement by Doug Schmidt Construction, Inc. over the tract of land legally described above pursuant to the Conservation Easement Agreement, attached hereto and marked as Attachment "A", is hereby accepted and approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Conservation Easement Agreement on behalf of the City of Lincoln, Nebraska.

Introduced by Jonathan Cook

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Svoboda; NAYS: Cook, Newman, Werner.

SPECIAL PERMIT 2029 - APP. OF DOUG SCHMIDT & MICHAEL THOMALLA TO DEVELOP S.W. 1ST STREET APARTMENTS COMMUNITY UNIT PLAN FOR 30 DWELLING UNITS ON PROPERTY GENERALLY LOCATED AT W. A ST. & S.W. 1ST STS. (10/27/03 - LOST, 1-5; SVOBODA ASSENTING; CAMP ABSENT; #38-4456) (11/03/03 - RECONSIDERED TO HAVE PUBLIC HEARING & ACTION ON 12/1/03, 7-0.) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption.

A-82482 WHEREAS, Doug Schmidt and Michael Thomalla have submitted an application designated as Special Permit No. 2029 for authority to construct the S.W. 1st Street Apartments Community Unit Plan consisting of 30 dwelling units, on property located at West A Street and S.W. 1st Street, and legally described to wit:

The remaining portion of Lot 1, Fairway Addition, located in the Southeast Quarter of Section 27, Township 10 North, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Beginning at the north most corner of said Lot 1; thence on the northerly line of said Lot 1, on an assigned bearing of south 73 degrees 39 minutes 45 seconds east, a distance of 217.90 feet; thence continuing on said northerly line, south 57 degrees 33 minutes 59 seconds east, 118.69 feet, to a point on the west right-of-way line for S.W. 1st Street; thence on said west right-of-way line for the next five courses, south 0 degrees 15 minutes 03 seconds west, 26.86 feet; thence south 86 degrees 32 minutes 48 seconds west, 6.98 feet; thence south 0 degrees 14 minutes 03 seconds west, 260.79 feet; thence south 4 degrees 02 minutes 54 seconds west, 63.46 feet; thence south 37 degrees 19 minutes 18 seconds west, 50.37 feet, to a point on the south line of said Lot 1, said point being on the north right-of-way line for West A Street; thence on said south line of Lot 1, south 90 degrees 00 minutes 00 seconds west, 128.01 feet, to the southeast corner of Lot 2, said Fairway Addition; thence on the east line of said Lot 2, north 0 degrees 02 minutes 31 seconds east, 196.09 feet to the northeast corner of said Lot 2; thence on the north line of said Lot 2, south 90 degrees 00 minutes 00 seconds west, 209.00 feet to the northwest corner of said Lot 2, said point being the southwest corner of said Lot 1; thence on the west line of said Lot 1, north 0 degrees 13 minutes 05 seconds west, 208.68 feet to a point on the northwesterly line of said Lot 1; thence on said northwesterly line, north 32 degrees 39 minutes 43 seconds east, 132.57 feet to the point of beginning;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions

hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of Doug Schmidt and Michael Thomalla, hereinafter referred to as "Permittee", to construct the S.W. 1st Street Apartments Community Unit Plan consisting of 30 dwelling units, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.320 and Chapter 27.65 of the Lincoln Municipal Code upon condition that construction and operation of said community unit plan be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves 30 dwelling units.
2. Before receiving building permits:
 - a. The Permittee must submit an acceptable, revised, and reproducible final plan including five copies.
 - b. The construction plans must conform to the approved plans.
3. Before occupying the dwelling units, all development and construction must be completed in conformance with the approved plans.
4. All privately-owned improvements must be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
5. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
6. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, their successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
7. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jonathan Cook

Seconded by Friendt & carried by the following vote: AYES: Camp, Friendt, McRoy, Svoboda; NAYS: Cook, Newman, Werner.

SETTING THE HEARING DATE OF MONDAY, DEC. 15, 2003 AT 1:30 P.M. FOR THE APP. OF CORY FLETCHER DBA MAHONEY GOLF COURSE FOR AN ADDITION TO PREMISE TO ADD ENTIRE 18-HOLE GOLF COURSE AND BUILDINGS AT 7900 ADAMS STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82483 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 15, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street., Lincoln, NE, for the App. of Cory Fletcher dba Mahoney Golf Course for an addition to premise to add the entire 18-hole golf course and buildings at 7900 Adams Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DEC. 15, 2003 AT 1:30 P.M. FOR THE APP. OF DENIS M. VONTZ DBA HIGHLANDS GOLF COURSE FOR AN ADDITION TO PREMISE TO ADD THE ENTIRE 18-HOLE GOLF COURSE AND BUILDINGS AT 5501 N.W. 12TH STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82484 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 15, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street., Lincoln, NE, for the App. of Denis M. Vontz dba Highlands Golf Course for an addition to premise to add the entire 18-hole golf course and buildings at 5501 N.W. 12th Street.

If the Police Dept. is unable to complete the investigation by

said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DEC. 15, 2003 AT 1:30 P.M. FOR THE APP. OF TIMOTHY L. ROWLAND DBA PIONEERS GOLF COURSE AN ADDITION TO PREMISE TO ADD THE ENTIRE 18-HOLE GOLF COURSE AND BUILDINGS AT 3403 W. VAN DORN STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82485 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 15, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street., Lincoln, NE, for the App. of Timothy L. Rowland da Pioneers Golf Course for an addition to premise to add the entire 18-hole golf course and buildings at 3403 W. Van Dorn Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DEC. 15, 2003 AT 1:30 P.M. FOR THE APP. OF JOHN CRAW DBA CRAWDAD'S INC. AN ADDITION TO PREMISE TO ADD THE ENTIRE 18-HOLE GOLF COURSE AND BUILDINGS AT 3701 S. 70TH STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82486 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 15, 2003 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th Street., Lincoln, NE, for the App. of John Craw dba Crawdad's Inc. for an addition to premise to add the entire 18-hole golf course and buildings at 3701 S. 70th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 8, 2003 AT 1:30 P.M. FOR THE MAN. APP. OF TODD M. KERNS FOR OUTBACK STEAKHOUSE FL, INC. DBA OUTBACK STEAKHOUSE AT 633 N. 48TH STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82487 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 8, 2003, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Man. App. of Todd M. Kerns for Outback Steakhouse Fl, Inc. dba Outback Steakhouse at 633 N. 48th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 8, 2003 AT 1:30 P.M. FOR THE MAN. APP. OF PATRICK R. LEAPLEY FOR GMRI INC. DBA RED LOBSTER #0236 AT 6540 O STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82488 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 8, 2003, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Man. App. of Patrick R. Leapley for GMRI Inc. dba Red Lobster Restaurant #0236 at 6540 O Street. If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DECEMBER 8, 2003 AT 1:30 P.M. FOR MAN. APP. OF PATRICIA PIKE FOR BUGGY BATH WEST DBA BUGGY BATH CAR WASH WEST LOCATED AT 1502 WEST O STREET - CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82489 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby set for Mon., December 8, 2003, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the Man. App. of Patricia Pike for Buggy Bath West dba Buggy Bath Car Wash West at 1502 West O Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ACCEPTING THE REPORT OF NEW AND PENDING CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF OCT. 16 TO 31, 2003. (11/24/03 - ACTION ON CLAIM OF GARY BARGAR DELAYED 1 WEEK TO 12/1/03) - PRIOR to reading:

WERNER Moved to accept the claim of Gary Bargar for \$1,400.00.

Seconded by Svoboda & **LOST** by the following vote: AYES: McRoy, Svoboda, Werner; NAYS: Camp, Cook, Friendt, Newman.

CLERK Read the following resolution, introduced by Ken Svoboda, who moved its adoption.

A-82491 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the claims listed in the attached report, marked as Exhibit "A", dated November 3, 2003, of various new and pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. § 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

DENIED

ALLOWED OR SETTLED

Gary Bargar 3,819.48

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Ken Svoboda

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, Newman; NAYS: McRoy, Svoboda, Werner.

APPROVING A REDEVELOPMENT AGREEMENT WITH CENTERPOINTE INC. FOR AMENDMENTS TO THE NORTH 27TH STREET CORRIDOR AND ENVIRONS REDEVELOPMENT PLAN TO DEVELOP THE PROPERTY ON P STREET BETWEEN 26TH AND 27TH STREET FOR A 15,000 SQ. FT. RESIDENTIAL TREATMENT CENTER WITH 20 BEDS AND ADMINISTRATIVE OFFICES. (IN CONNECTION W/03-84) - CLERK read the following resolution, introduced by Patte Newman, who moved its adoption.

A-82492 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached CenterPointe, Inc. Redevelopment Agreement between the City of Lincoln and the CenterPointe, Inc., for redevelopment of the property legally described as Lots 1-8, Block 21, Kinny's O Street Addition, within the North 27th Street Redevelopment Plan, as a 20 bed adult residential treatment center and administrative offices, including parking and landscaping, in accordance with the terms

and conditions contained in said Agreement, is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln.

The City Clerk is directed to return one fully executed copy of the Agreement to the Urban Development Department, for transmittal to CenterPointe, Inc.

Introduced by Patte Newman

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Newman, Svoboda, Werner; NAYS: Friendt, McRoy.

PETITIONS & COMMUNICATIONS

THE FOLLOWING WERE REFERRED TO THE PLANNING DEPARTMENT:

Change of Zone 3424 - App. of Everett Neighborhood Assn. for a change from Various R-4, R-5, & R-6 to R-2 at an area bordered by 9th, 13th, Plum and Washington Streets.

Change of Zone 3431 - App. of Brian D. Carstens for a text amendment change to Section 27.29.020 of the LMC to allow medical testing laboratories.

Special Permit 2031 - App. of Pearle F. Finigan for waivers of ornamental lighting, sidewalks, street trees, landscape screens & stormwater detention at 84th and Waverly Road.

Special Permit 2041 - App. of Champion Window Company of Omaha for a glassed-in patio room at 2000 Lake Street.

Special Permit 2043 - Papke's Inc. for a liquor license at 6112 Havelock Avenue.

Special Permit 2044 - App. of Olsson Associates for a six-plex theater at approximately 27th & Folkways Blvd.

REPORTS OF CITY OFFICERS

INVESTMENT OF FUNDS FOR THE WEEK OF NOVEMBER 10 THRU NOVEMBER 21, 2003 -

CLERK read the following resolution, introduced by Ken Svoboda, who moved its adoption:

A-82490 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed and approved, and the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council.

Ken Svoboda

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

SETTING THE HEARING DATE OF MONDAY, DEC. 15, 2003 AT 1:30 P.M. FOR THE ASSESSMENT OF WEED REMOVAL COSTS INCURRED FOR THE PERIOD OF JAN. 1 THROUGH DEC. 31, 2003 - CLERK requested a motion to approve the hearing date of Mon., Dec. 15, 2003 at 1:30 p.m.)

SVOBODA So moved.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

REPORT FROM CITY TREASURER OF FRANCHISE FEES COLLECTED FROM AQUILA FOR THE MONTH OF OCTOBER, 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk. **(16-1)**

FINANCIAL REPORT OF LES FOR THE THIRD QUARTER 2003 - CLERK presented said report which was placed on file in the Office of the City Clerk. **(40)**

REPORT FROM CITY TREASURER OF TELECOMM. OCC. TAX FOR THE MONTH OF OCT. 2003: AFFINITY, ASSOC. ADM., COMDATA TELECOMM., GLOBALCOM, ZONE TELECOM., NEXTEL WEST, NOSVA LTD., EXCEL, TELCO DEV., WORLDXCHANGE, GTC, TELECORP COMM., NETWORK BILLING SYSTEMS, LDMI TELECOMM., TRI-M, LIGHTYEAR, NOS COMM., ATT WIRELESS PCS LLC, CELLULAR ONE - CLERK presented said report which was placed on file in the Office of the City Clerk. **(20)**

ORDINANCES - 1ST READING

ACCEPTING AND APPROVING THE "AMENDMENT TO CORNHUSKER SQUARE REDEVELOPMENT PROJECT PHASE TWO AGREEMENT - BURNHAM YATES CONFERENCE CENTER" BETWEEN

THE CITY OF LINCOLN, CORNHUSKER SQUARE LAND COMPANY, AND DAVID H. MURDOCK; AND ACCEPTING AND APPROVING THE "AMENDMENT TO FIRST AMENDED AND RESTATED LEASE AND OPERATING AGREEMENT - BURNHAM YATES CONFERENCE CENTER" BETWEEN THE CITY OF LINCOLN AND CORNHUSKER SQUARE LIMITED PARTNERSHIP - CLERK read an ordinance, introduced by Ken Svoboda, accepting and approving the "Amendment to Cornhusker Square Redevelopment Project Phase Two Agreement - Burnham Yates Conference Center" between the City of Lincoln, Cornhusker Square Land Company, and David H. Murdock; and accepting and approving the "Amendment to First Amended and Restated Lease and Operating Agreement - Burnham Yates Conference Center" between the City of Lincoln and Cornhusker Square Limited Partnership, the first time.

ORDINANCES - 3RD READING

AMENDING THE LINCOLN CORPORATE LIMITS MAP BY ANNEXING APPROX. 468.49 ACRES OF PROPERTY GENERALLY LOCATED AT W. VAN DORN ST. & S. FOLSOM ST. (IN CONNECTION W/03R-314) (11/17/03- ACTION DELAYED TO 12/1/03) - PRIOR to reading:

COOK Moved to accept Substitute No. 1 ordinance.
Seconded by Werner & carried by the following vote: AYES: Cook, McRoy, Newman, Werner; NAYS: Camp, Friendt, Svoboda.

CLERK Read an ordinance, introduced by Jonathan Cook, annexing and including the below described land as part of the City of Lincoln, Nebraska and amending the Corporate Limits Map attached to and made a part of Ordinance No. 18208, to reflect the extension of the corporate limits boundary of the City of Lincoln, Nebraska established and shown thereon, the third time.

SVOBODA Moved to pass the ordinance as read.
Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18278**, is recorded in Ordinance Book ,
Page

CHANGE OF ZONE 3401 - APPLICATION OF URBAN DEVELOPMENT FOR A CHANGE OF ZONE FROM R-6 RESIDENTIAL DISTRICT TO B-3 COMMERCIAL DISTRICT ON PROPERTY GENERALLY LOCATED AT N. 27TH AND P STREETS. (IN CONNECTION W/03R-326) - CLERK read an ordinance, introduced by Annette McRoy, amending the Lincoln Zoning District Maps attached to and made a part of Title 27 of the Lincoln Municipal Code, as provided by Section 27.05.020 of the Lincoln Municipal Code, by changing the boundaries of the districts established and shown thereon, the third time.

MCROY Moved to pass the ordinance as read.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Svoboda, Werner; NAYS: Friendt, McRoy; ABSTAINED: Newman.

The ordinance, being numbered **#18279**, is recorded in Ordinance Book ,
Page

RENAMING OGDEN ROAD GENERALLY LOCATED NORTHEAST OFF OF SUPERIOR STREET AT N. 1ST STREET AND SUPERIOR STREET, AS CAMPERS CIRCLE - CLERK read an ordinance, introduced by Annette McRoy, changing the name of Ogden Road to Campers Circle located northeast of Superior Street at N. 1st Street, as recommended by the Street Name Committee, the third time.

MCROY Moved to pass the ordinance as read.
Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18280**, is recorded in Ordinance Book ,
Page

CHANGE OF ZONE 2751A - AMENDING THE VAN DORN ACRES PLANNED UNIT DEVELOPMENT FOR 210 RESIDENTIAL UNITS AND 33,000 SQUARE FEET OF COMMERCIAL FLOOR AREA FOR USES ALLOWED IN THE B-1 LOCAL BUSINESS DISTRICT, INCLUDING THE ON AND OFF SALE OF ALCOHOL IN PORTIONS OF BUILDINGS 9 AND 10 THAT ARE WITHIN 100' OF A RESIDENTIAL DISTRICT, PROVIDED THE ON-SALE ALCOHOL IS LIMITED TO BUSINESSES WHICH DERIVE MORE THAN 50% OF THEIR GROSS RECEIPTS FROM FOOD SALES, AND WAIVERS OF THE REQUIREMENTS TO ALLOW A PRIVATE SANITARY EJECTOR PUMP TO SERVE THE COMMERCIAL AREA, TO ELIMINATE PEDESTRIAN EASEMENT, TO ALLOW TANDEM PARKING IN THE REQUIRED PARKING, AND TO EXCEED THE MAXIMUM BUILDING HEIGHT FOR THE MULTI-FAMILY STRUCTURES, ON PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF 84TH AND VAN DORN STREETS - PRIOR to reading:

REGULAR MEETING
DECEMBER 1, 2003
PAGE 640

SVOBODA Moved to amend Bill No. 03-179 on page 2, beginning on line 23 through line 25 delete the language: "however, easements will be avoided to not disrupt screening between the multi-family and single family dwellings".

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

CLERK Read an ordinance, introduced by Annette McRoy, amending the Van Dorn Acres Planned Unit Development to increase the number of multi-family dwelling units from 96 to 210 dwelling units, to increase the commercial floor area uses allowed in the B-1 Local Business District from 10,000 square feet to 33,000 square feet, including the sale of alcohol for consumption on and off the premises in portions of buildings 9 and 10 that are within 100' of a residential district, provided the on-sale alcohol for consumption on the premises is limited to businesses which derive more than 50% of their gross receipts from food sales, and to waive prohibitions within the Land Subdivision Ordinance and Zoning Code to allow a private sanitary ejector pump to serve the commercial are, to allow tandem parking to meet the required parking, and to allow the maximum building height for the multi-family structures to exceed 35 feet, on property generally located at the southwest corner of 84th and Van Dorn Streets, the third time.

MCROY Moved to pass the ordinance as read.

Seconded by Friendt & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

The ordinance, being numbered **#18281**, is recorded in Ordinance Book ,
Page

AMENDING TITLE 8 OF THE LINCOLN MUNICIPAL CODE RELATING TO HEALTH AND SANITATION BY CREATING A NEW CHAPTER 8.48 ENTITLED THE LINCOLN SMOKEFREE AIR ACT TO SET FORTH THE TITLE AND PURPOSE OF THE CHAPTER, TO SET FORTH GENERAL PROVISIONS REGARDING DEFINITIONS USED IN THE CHAPTER, TO PROVIDE DEFINITIONS FOR EMPLOYEE, EMPLOYER, GUESTROOM OR SUITE, HEALTH DIRECTOR, INDOOR AREA, INTERNATIONAL NO-SMOKING SYMBOL, PLACE OF EMPLOYMENT, PROPRIETOR, PUBLIC PLACE, SMOKE OR SMOKING, RESPECTIVELY, TO PROVIDE EXCEPTIONS TO THE PROVISIONS OF THE CHAPTER; TO REQUIRE THE POSTING OF "NO SMOKING" SIGNS, TO PROVIDE FOR THE ENFORCEMENT OF THE PROVISIONS OF THE CHAPTER, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE CHAPTER, TO PROVIDE FOR SEVERABILITY OF THE CHAPTER, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE SIX MONTHS AFTER CITY COUNCIL APPROVAL - PRIOR to reading:

FRIENDT Moved a Substitute Ordinance.

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, Newman, Werner; NAYS: McRoy, Svoboda.

MCROY Moved to accept Amendment 5-A.

Seconded by Newman & **LOST** by the following vote: AYES: Friendt, McRoy, Newman; NAYS: Camp, Cook, Svoboda, Werner.

COOK Moved to accept Amendment #23 as shown attached. (To be incorporated into amended ordinance).

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, Werner; NAYS: McRoy, Newman, Svoboda.

COOK Moved to amend the substitute ordinance to change the definition to read the same as the Nebraska Clean Indoor Act Standard, but to include "and windows".

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

WERNER Moved to delete Sections 8.48.123, 8.48.140 (4), and 8.48.150 (4).

Seconded by Svoboda & carried by the following vote: AYES: Camp, Cook, Svoboda, Werner; NAYS: Friendt, McRoy, Newman.

FRIENDT Moved to accept Amendment #24 to have a three year phase in of

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Seconded by Newman & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman; NAYS: Cook, Svoboda, Werner.

SVOBODA Moved a friendly amendment to undo the original amended version of phase in to be 18 months for all.

Seconded by Werner & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Svoboda, Werner; NAYS: Newman.

FRIENDT Moved to delay action on Bill No. 03-176S for one week to 12/8/03.

Seconded by McRoy & carried by the following vote: AYES: Camp, Friendt, McRoy, Newman, Svoboda; NAYS: Cook, Werner.

CLERK Read an ordinance, introduced by Jonathan Cook, amending Title 8 of the Lincoln Municipal Code relating to Health and Sanitation by creating a new Chapter 8.48 entitled the Lincoln Smokefree Air Act to set forth the title and purpose of the Chapter, to set forth general provisions regarding definitions used in the Chapter, to provide definitions for employee, employer, guestroom or suite, health director, indoor area, international no-smoking symbol, place of employment proprietor, public place, smoke or smoking, respectively, to provide exceptions to the provisions of the chapter; to require the posting of "no smoking" signs, to provide for the enforcement of the provisions of the chapter to provide penalties for violations of the chapter, to provide for severability of the chapter, and providing that this ordinance shall become effective six months after City Council approval, the third time.

MISCELLANEOUS BUSINESS

PENDING -

SVOBODA Moved to extend the Pending List to December 8, 2003.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

UPCOMING RESOLUTIONS -

SVOBODA Moved to approve the resolutions to have Public Hearing on
December 8, 2003.
 Seconded by Cook & carried by the following vote: AYES: Camp,
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.

ADJOURNMENT 7:03 P.M.

SVOBODA Moved to adjourn the City Council meeting of December 1, 2003.
 Seconded by Cook & carried by the following vote: AYES: Camp,
Cook, Friendt, McRoy, Newman, Svoboda, Werner; NAYS: None.
 So ordered.

Joan Ross, CMC, City Clerk

Judy Roscoe, Senior Office Assistant

